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In the Supreme Court of the United States.

OCTOBER TERM, 1891.

THE UNITED STATES, Plaintiff in error,
vs.
WESTERN UNION TELEGRAPH Company and the Union Pacific Railroad Company.
No. 1117.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

MOTION TO ADVANCE.

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And now, October 26, 1891, comes the Attorney-General, and moves the court to advance the above-named case for an early hearing at this term.

The suit is an action by the United States to recover from the Western Union Telegraph Company money paid by one of its officers under a mistake, and without legal authority, for service in the transmittal of telegraph messages, which, as claimed by the United States, ought not to have been paid for, because the United States was entitled to the service without compensation to said company. The exact question is whether, when dispatches are

presented to the Western Union Telegraph Company which are transmitted in part or wholly over the line of the Union Pacific Railway Company, the Western Union Telegraph Company has the right to charge the Government for that part of the service any greater sum than the Union Pacific Railroad Company would have the right to charge for the same for transmittal over its line. The Union Pacific Railroad Company is a line bond-aided and subsidized by the Government of the United States, and under its charter and amendments is obliged to carry telegraphic messages free for the United States.

The question is, whether the United States may avail itself of this right against the Union Pacific Railroad Company with respect to messages delivered to the Western Union Telegraph Company which in part or in whole are transmitted over lines constructed on the right of way of the Union Pacific Railroad Company. This case was brought as a test case. The account sued on is only a small proportion of the accounts between the Government and the Western Union Telegraph Company involving the same question. The controversy has existed between the Government and the telegraph company for a great number of years. It is highly important, therefore, to have this principle settled, since upon its judicial determination depends the adjustment of the accounts between the Government and the Western Union Telegraph Company extending over that length of time.

W. H. H. MILLER,
Attorney-General.